

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.351 Aggregate Manufacturing

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130
RETAILERS' OCCUPATION TAX**

Section 130.351 Aggregate Manufacturing

- a) General. Through June 30, 2003, notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5].
- 1) "Aggregate" shall mean any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.
 - 2) This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.
 - 3) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, excavating, dredging, and drilling to locate aggregate deposits.
 - 4) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.
 - 5) "Off Highway Hauling" means carrying or transporting and would include transport of

overburden or waste material, including byproduct materials from the processing facility for disposal and aggregate from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles.

- 6) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.
 - 7) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.
 - 8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.
 - 9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.
 - 10) "Kits" means commercially packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.
- b) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:
- 1) Aggregate is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:
 - A) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
 - B) Equipment used to remove overburden and other waste materials from the deposit to be mined.
 - C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.

- D) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the active mine area.
 - E) Equipment used to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.
 - F) Equipment used to extract aggregate from the earth.
 - G) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or aggregate to the processing facility.
 - H) Equipment used to backfill, grade, seed, plant or otherwise reclaim previously mined land.
 - I) Crushing, screening and other equipment used to beneficiate and size aggregate products.
 - J) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing is exempt if the aggregate is ultimately processed for resale and is in fact resold.
 - K) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.
 - L) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.
 - M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.
- 2) Aggregate is produced in an underground mining operation that begins with creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:
- A) Equipment used to create access to the aggregate deposit and load aggregate into conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.
 - B) Conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.
 - C) The feeder and crusher used to break large pieces of aggregate.

- D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.
 - E) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the underground mine area.
 - F) Equipment used to install roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.
 - G) Equipment used to coat mine walls with inert material for loose rock safety.
 - H) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems.
 - I) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.
 - J) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
 - K) Equipment used for transporting aggregate to above-ground facilities.
 - L) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing if the aggregate is ultimately processed for resale and is in fact resold.
 - M) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.
 - N) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.
 - O) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.
 - P) Roof bolt supports and side rib bolt supports to prevent mine collapse.
- 3) By way of illustration and not limitation, the following maintenance equipment is exempt:
- A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.
 - B) Lathes, drill presses, air compressors and welders used to attach repair parts.
 - C) Mobile and overhead cranes.
 - D) Equipment used for dust suppression.

4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

- A) Drill rigs used to drill exploration core holes.
- B) Water trucks used in the drilling process.
- C) Winch and casing trucks used in the drilling process.
- D) Field maintenance trucks used to make repairs on field equipment.
- E) Air compressors.

c) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

- 1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;
- 2) the use of equipment in research and development for new uses of aggregate;
- 3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;
- 4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;
- 5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;
- 6) facilities for storing aggregate after extraction and processing;
- 7) front-end loaders, cranes and equipment used to load aggregate onto trucks, railcars or barges for delivery to customers.

d) Sales to Lessors of Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

- 1) For the exemption to apply, the purchaser need not, himself, employ the equipment

in aggregate exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

- 2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax that he previously did not pay. The tax will be assessed upon the fair market value of the equipment at the time of conversion.

e) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualified uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 28 Ill. Reg. 11271, effective July 21, 2004)

